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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,646	07/18/2006	Guido Muesch	PHIDE030119US	2630
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EXAMINER				
CHAKOUR, ISSAM				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,646

Applicant(s)

MUESCH ET AL.

Examiner

ISSAM CHAKOUR

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This office action is responsive to amendments and arguments made by the applicant filed on 11/19/2008.

The applicant amended claims 2-14, canceled claim 1, and added claims 15-17.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 2-5, 6-13, and 15-17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Khair in view of Borchardt et al (US 5,383,044).

4. Regarding claims 4, 9, and 11, Khair discloses a method for allocating network elements (e.g. bio-sensor transceivers, see figure 1, items 16) to a wireless network (e.g. short range network, see claim 1), wherein the first network element transmit its ID (e.g. unique identifier, see paragraph [0081] on page 6, line 6) so that the latter can be received by a second network element (e.g. Base unit, see figure 1) which allocates the

first network element (e.g. biosensors) to its network and wherein the activation of second network element (See figure 4, item 61, note that the activation is done through the user interface by a user input, see [0002] lines 12-15) to receive the encoded (See item 56 in figure 4) ID from the first network element takes place by receiving the code from the base unit (e.g. command, see [0118], lines 10-14 on page 10, see also [0011] lines 6-12 on page 2). Khair does not teach that the allocating unit is a separate unit that performs the function of transmitting a code which causes the first network element to transmit its ID and the code transmitted to a second network element. However, Borchardt discloses a unit (e.g. remote control) that has a plurality of control functions for controlling devices and apparatuses (See abstract). Note that in the prior art (Khair et al) the second network element (e.g. base unit, see figure 1) has the allocating function which transmits a code that causes the first network elements to transmit back their ID as well as the ID of base unit transmitted initially to the first network elements (See abstract and claim 1 in Khair). It would have been obvious to one of ordinary skill in the art to modify Khair's invention to include the feature (remote control) taught by Borchardt, such that the code or encoded IR signal describing the corresponding function requested is sent, as known in the art and disclosed by Borchardt, with the ID representing the sensor to be added as described by Khair because the remote control or the allocation unit could be used among other functions to conveniently and remotely synchronize a sensor to be added to the network, and especially convenient if all the steps are to be automatic instead of manual. Note furthermore that implementing the

allocating unit function steps in a remote control apparatus is well within the grasp on one of ordinary skill in the art.

5. In claims 2, 10, and 16 Khair in view of Borchardt also teaches the method and its corresponding allocation unit and allocation system in accordance with claims 4, 9, and 15 respectively, but Khair does not teach that the allocation unit as in claim 1 transmits an encoded light pulse. However, Borchardt teaches a task or function allocation unit that transmits an encoded light pulse (See abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system as taught by Khair to transmit the encoded signal in a form of signal carrying light such Infra-Red transmission as opposed to radio frequency or RF transmission, because the control by the allocation unit might constitute a transmission alternative and a convenient way for configuring the transceivers to transmit the sensed signal from the patient body.

Note that in the prior art above the base unit has both functions, one performed by the second network element which is the managing and the configuring processing function and the second is the allocation unit which is the remote controller which synchronizes and control the sensors. It would have been obvious to one of ordinary skill in the art to separate the function of remote controlling the sensors and implementing it as a separate unit which would both control.

6. Regarding 3, Khair in view Borchardt teaches the method and its corresponding allocation unit and allocation system in accordance with claims 4, 9, and 15 respectively, Khair further teaches that the base unit transmits an encoded (See [0051], lines 1-3, note the signal transmitted/received are encoded, encoder/decoder stages are responsible for this feature) radio signal (See paragraph [0054], line 6) radio signal (See paragraph [0043]). However Khair does not teach that the allocation unit transmits an encoded radio signal. Nonetheless, Borchardt discloses an allocation unit (e.g. remote control), It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Khair's invention such that the allocating unit or remote control as taught by Borchardt carries the allocation function instead of the base unit in Khair, and such that the allocating unit transmitted signal is a radio signal as performed by the base station in Khair, because radio communication constitutes an alternative way for transmitting data between elements of the network where range and obstruction are issues to Infra-Red (light pulse) transmission.

7. Regarding claims 5 and 12, Khair in view of Borchardt discloses the method in accordance with claims 4 and 9 respectively, Rein does not disclose that the allocation unit receives the encoded ID from the first network element and transmits it to the second network element. However, the examiner takes official notice that it is well known in the art to integrate a receiver in the allocation unit for receiving data encoded sensor identification or any data from the sensors (NE-1) and transmitting it to the second network element. It would have been obvious to one of ordinary skill in the art at

the time of the invention to modify Khair's invention in view of Borchardt so to route the encoded ID information through the allocation unit instead of direct communication between NE-1 and NE-2, because the feature will mitigate the event of loss of signal or synchronization of NE-1 to the network of NE-2, therefore the user would feel the need for synchronizing the network elements manually by storing the encoded ID in the allocation unit and transmitting it to the NE-2.

8. Regarding claim 6, Khair in view of Borchardt teaches the limitation in accordance with claim 1, Khair further teaches that a base unit (which is the NE-2) can transmit a second code or another command which causes a first network element (sensors) to leave (disable the NE-1) the network of the base unit (See paragraph [0109], lines 7-10). Khair does not teach that the allocation unit transmits a second code which causes the NE-1 to leave the network of NE-2. However, Borchardt does teach the allocating having control functions (See abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Khair's invention to include the allocating unit or remote control as taught in Borchardt's invention such that the function of disconnecting NE-1 from the network of NE-2 as performed by the base unit is rather implemented in and controlled from the allocation unit, because the feature will permit the user to easily disconnect the sensors when they are not in use or for conservation of battery power.

9. With respect to claim 7, Khair in view of Borchardt discloses the method as in claim 1; Khair further teaches that a base unit (NE-2) which has a network administration function can break up the network or disconnect other element from its network as indicated above (See paragraph [0109], lines 7-10). Khair does not teach that the allocation unit transmits a second code which causes the second network element, which has a network administration function to break up the network. As mentioned previously, Borchardt's invention discloses an allocation unit having control functions. Similarly, it would have been obvious to one of ordinary skill in the art to modify Khair's invention so to include the allocation unit taught by Borchardt to perform the control function of the user as originally performed by the base unit in Khair's invention, which is to send another command by means of a transmitter to cause the second network element (also the bas unit in Khair) which has administration function to break up the network, because the user for the same reason discussed above would desire to disconnect the sensors as well as the network node/administrator when they are no longer in use or for conservation of battery power.

10. Consider claim 13, Khair in view of Borchardt discloses the allocation unit as in claim 9, Borchardt further teaches the allocating unit (e.g. Remote control unit) including:
one or more devices which display a respective operating state (See column 6, lines 4-8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the limitation taught by Borchardt in Khair's invention because it would

provide the provide the operator or the user that sets up the sensors, an indication of current state of the sensor to be added/broken to/from the network.

11. Regarding claim 15, Khair discloses a system for allocation medical network devices to a wireless network comprising:

a unassigned first medical network device (e.g. wireless electrode devices or bio-sensor transceivers, see figure 1, items 16) which receives the encoded code (e.g. coded modulated RF signals, see [0045], lines 13-16) and transmits an encoded first ID medical network device with the encoded code in response to the reception of the encoded code (See [0051], lines 16-19, see also [0041]. lines 1-6);

a second medical network medical device (e.g. Base unit, see figure 1), assigned to an existing network and having network administration functions, which second medical network device receives the encoded first medical network device ID (note that in Khair the configuration or allocation data such ID transmitted to base unit are encoded, the base unit decodes these data, see item 56 in figure 4) and assigns the first medical network device to the existing network (See [0118], lines 10-14 on page 10, see also [0011] lines 6-12 on page 2).

Khari does not disclose an allocation unit which transmits an encoded code in response to a user command; he also does not teach said assignment of the first medical device to the network in response to the reception of the encoded code from the allocation unit. However, Borchardt discloses a unit (e.g. remote control) that has a plurality of control functions for controlling devices and apparatuses (See abstract). Note that in the prior

art (Khair et al) the second network element (e.g. base unit, see figure 1) has the allocating function which transmits a code that causes the first network elements to transmit back their ID as well as the ID of base unit transmitted initially to the first network elements (See abstract and claim 1 in Khair). It would have been obvious to one of ordinary skill in the art to modify Khair's invention to include the feature (remote control) taught by Borchardt, such that the code or encoded IR signal describing the corresponding function requested is sent, as known in the art and disclosed by Borchardt, with the ID representing the sensor to be added as described by Khair because the remote control or the allocation unit could be used among other functions to conveniently and remotely synchronize a sensor to be added to the network, and especially convenient if all the steps are to be automatic instead of manual. Note furthermore that implementing the allocating unit function steps in a remote control apparatus is well within the grasp on one of ordinary skill in the art.

12. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khair in view of Borchardt in further view of Lui et al (US 2002/0180622)

13. Regarding claims 8 and 14, Khair in view Borchardt discloses the method in accordance with claims 6 and 9. Khair in view of Borchardt teaches as mentioned above a command for removing network elements (e.g. sensors) or for breaking up the network. However Khair does not teach that the second code for said particular control includes the first code being transmitted over a longer time period or number of times. Nonetheless, Lui discloses a time based button pressing method for performing a

particular function or for controlling a function, he discloses that the second code or command being transmitted is consisted of the first command (pressing the button for a normal short period of time) being transmitted over a longer period of time. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Khair's invention as to include the allocation unit (remote control) as taught by Borchardt, where instead of using multiple button for different control functions, the modification would further include Lui's method, because the feature would allow the user to carry a compact remote control with fewest buttons yet with the same functionalities.

Response to Arguments

Applicant's arguments filed 11/19/2008 have been fully considered but they are not persuasive.

Regarding claims 1 and 9, the examiner respectfully disagrees with the traverse made by the applicant.

In claims 1 and 9, the applicant submitted that Khair nor Borchardt nor the combination teaches "a first network element to transmit its ID together with the code so that the latter can be received by a second network element which allocates the first network element to its network" The Examiner refers the applicant to Khair's disclosure in which he discloses a first network element which is the bio-sensor that transmit its ID to the base-station which is the second network element as disclosed by Khair, the base-station assigns network elements and has network administrative tasks. As mentioned above in the rejection Borchardt teaches a remote control which transmits

codes that describe particular functions for the user, The examiner acknowledges that it is well within on of ordinary skill in the art to include a remote control in Khair's invention and modify it as to have functions to have on behalf of the base-station allocation tasks or even administrative functions. Note that it alos known in the art that a remote control transmit a code describing a function to carry a particular task and in view of Khair's invention would be obvious to transmit along with the authenticating ID and synchronization data a code that describe a function intended by the user on behalf of the base-station or the second network elements.

In regards to claims 1-3, 5-8, and 10-15, the applicant submits that said claims are in condition for allowance at least by virtue of their dependency on the independent claims. The examiner respectfully disagrees with the traverse and acknowledges that the aforementioned claims inherit the deficiency of their independent claims and at least by virtue of their dependency are rejected.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ISSAM CHAKOUR whose telephone number is (571) 270-5889. The examiner can normally be reached on Monday-Thursday (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Perez Rafael can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/I. C./
Examiner, Art Unit 2617

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617